# BULGARIA

## TRADE SUMMARY

The U.S. trade deficit with Bulgaria was $97 million in 1999, $7 million lower than 1998. Bulgaria was the United States' 111th largest export market in 1999. U.S. merchandise exports to Bulgaria were $103 million, down $13 million (11 percent) from 1998. U.S. imports from Bulgaria were $200 million in 1999, a decrease of $19 million (8.9 percent) from 1998. The stock of U.S. foreign direct investment in 1998 was $21 million, a 4.6 percent increase from 1997.

## IMPORT POLICIES

The U.S.-Bulgaria bilateral trade agreement, in place since 1991, provides mutual most-favored-nation (MFN) status. Bulgaria "graduated" from Jackson-Vanik requirements and was accorded unconditional MFN treatment by the United States in October 1996.

In January 1999, average Bulgarian import tariffs were reduced significantly and a five-percent import surcharge was eliminated ahead of schedule. Average tariffs are to be reduced further in 2000 to approximately 13.9 percent (approximately 11 percent for industrial goods and 24 percent for agricultural products). However, tariffs in areas of concern to U.S. exporters – including poultry legs and other agricultural products, wine and distilled spirits (20 percent) – are still relatively high, and exceed the European Union's (EU) common external tariff.

Bulgaria's 1994 Association Agreement with the EU phases out tariffs between Bulgaria and the EU over a ten-year period, while U.S. exporters will be subject to MFN duties. This has created a competitive disadvantage for some U.S. exporters, such as soda ash and hand tool exporters. The Association Agreement also provided preferential tariff arrangements for some farm products. In 1998, Bulgaria joined the Central European Free Trade Area (CEFTA). Over the following three years, tariffs on 80 percent of industrial goods traded between CEFTA countries are being eliminated. Under an agreement with the European Free Trade Association (EFTA), imports from EFTA countries also enjoy tariff preferences. A free trade agreement with Turkey took effect in January 1999. A free trade agreement with Macedonia will enter into force in January 2000. In December 1998, parliament revoked exemption from value-added tax (VAT) and customs duties for capital contributions in kind valued at over $100,000. In the past, some investors have reported that high import tariffs on products needed for the operation of their establishments in Bulgaria served as a significant barrier to investment. In December 1999, the EU announced its intention to begin accession negotiations with Bulgaria in early 2000.

Customs regulations and policies are sometimes reported to be cumbersome, arbitrary and inconsistent. Problems cited by U.S. companies include excessive documentation requirements, slow processing of shipments and corruption. Bulgaria uses the single customs administrative document used by EU members.

Bulgaria acceded to the World Trade Organization in December 1996.

## STANDARDS, TESTING, LABELING AND CERTIFICATION

All imports of goods of plant or animal origin are subject to phytosanitary and veterinary control, and relevant certificates should accompany such goods. U.S. companies have complained of non-transparent standards and testing requirements in a number of industrial sectors.

## GOVERNMENT PROCUREMENT

Bulgaria is not a signatory to the WTO Agreement on Government Procurement (GPA); it has the status of an observer to the GPA and would have to become a signatory in order to join the EU. In June 1999, parliament adopted a new law on procurement replacing the 1997 Law on Assignment of Government and Municipal Contracts. This legislation defines terms and conditions for public orders and aims for increased transparency and efficiency in public procurement. However, bidders still complain that tendering processes are frequently unclear and/or subject to irregularities, fueling speculation on corruption in government tenders. U.S. investors have also found that, in general, neither remaining state enterprises nor private firms are accustomed to competitive bidding procedures to supply goods and services. However, tenders organized under projects financed by international donors have tended to be open and transparent.

**INTELLECTUAL PROPERTY RIGHTS PROTECTION**

Bulgarian intellectual property rights (IPR) legislation is generally adequate, with modern patent and copyright laws and criminal penalties for copyright infringement. In September 1999, parliament passed a series of laws on trademarks and geographical indications, industrial designs and integrated circuits. A law for the protection of new types of plants and animal breeds was adopted in September 1996. Parliament is expected to approve additional legislation in the near future extending copyright protection to 70 years, and introducing a new neighboring right for film producers, provisional measures to preserve evidence of IPR infringement and special border measures.

Until recently, Bulgaria was the largest source of compact disk and CD-ROM piracy in Europe and was one of the world's leading exporters of pirated goods. For this reason, Bulgaria was placed on the Special 301 Priority Watch List in January 1998. In 1998, enforcement improved considerably with the introduction of a CD-production licensing system subject to 24-hour plant surveillance. CD manufacturers must also submit a copy of an agreement with the copyright holder before starting production. In recognition of the significant progress made by the Bulgarian Government in this area, Bulgaria was removed from all Watch Lists in April 1999.

Pharmaceuticals manufacturers note that Bulgaria has not introduced data exclusivity or supplementary patent protection in line with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the EU Association Agreement. The industry further claims that drug pricing and reimbursement procedures are not transparent. These companies also report that enforcement of patent rights for their products is ineffective.

Software piracy continues to be a serious problem, although an industry legalization campaign which began in 1999 has made noticeable gains against unauthorized software. Local software industry representatives report that, with good cooperation from Bulgarian law enforcement authorities, the campaign has brought down the piracy rate to approximately 80 percent of the products in the market being unauthorized copies from above 90 percent previously. The Bulgarian Government signed an agreement with Microsoft in December 1998 which commits the state administration to license all company products.

Due to improvements in enforcement and the legal regime, audiovisual piracy decreased dramatically in 1998 and 1999. According to local industry representatives, the proportion of unauthorized films on cable television has been reduced from 80 to 10 percent over the last two years. The piracy rate for other television programs is estimated at 30 percent. Video piracy is estimated at 20 percent. DVD only appeared on the Bulgarian market in December 1999 and piracy currently does not appear to be a problem with this new format. The Motion Picture Association estimates that it lost $4 million in revenues in 1999 due to audio-visual piracy.

U.S. industries report that lack of effective judicial remedies for infringement of intellectual property rights is a barrier to investment. U.S. companies have also cited illegal use of trademarks as a barrier to the Bulgarian market.

**SERVICES BARRIERS**

As in other countries aspiring to membership in the EU, Bulgaria's 1998 radio and television law requires a “predominant portion” of certain programming to be drawn from European-produced works and sets quotas for Bulgarian works within that portion. However, this requirement will only be applied to the extent “practicable.” Foreign broadcasters transmitting into Bulgaria must have a local representative, and broadcasters are prohibited from entering into barter agreements with television program suppliers.

## INVESTMENT BARRIERS

A Bilateral Investment Treaty (BIT) with the United States took effect in 1994. The BIT includes guarantees for U.S. investors of the better of national and MFN treatment, the right to make financial transfers freely and without delay, international law standards for expropriation and compensation, and access to international arbitration.

Foreign persons cannot own land in Bulgaria because of a constitutional prohibition, but foreign-owned companies registered in Bulgaria are considered to be Bulgarian persons. Foreign persons may acquire ownership of buildings and limited property rights, and may lease land. Local companies where foreign partners have controlling interests must obtain prior approval (licenses) to engage in certain activities: production and export of arms/ammunition; banking and insurance; exploration, development and exploitation of natural resources; and acquisition of property in certain geographic areas. There are no specific export-performance requirements nor specific restrictions on hiring of expatriate personnel, but residence permits are often difficult to obtain. Bulgaria’s Commercial Code has provisions which do not adequately protect shareholders from abuses by other shareholders in a company.

## OTHER BARRIERS

Foreign investors complain that tax evasion by private domestic firms combined with the failure of the authorities to enforce collection from large, often financially precarious, state-owned enterprises places the foreign investor at a real disadvantage. The government has implemented legal reforms designed to strengthen the country’s business climate. Bulgaria has adopted legislation on foreign investment and secured lending, and is also making significant strides in regulation of the banking sector and the securities market. However, many business representatives contend that unnecessary licensing, administrative inefficiency and corruption continue to hinder private business development and market entry.